

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 19-99—sSB 967
Public Health Committee
Judiciary Committee

**AN ACT CONCERNING THE RECOMMENDATIONS OF THE
DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES
REGARDING EMERGENCY MEDICATION**

SUMMARY: This act codifies existing practice by allowing a hospital or other facility treating criminal defendants in the Department of Mental Health and Addiction Services' (DMHAS) custody to medicate, without going to court, such defendants who were found incompetent to stand trial and who are unable or unwilling to consent to such treatments for their psychiatric disabilities.

The act applies only if obtaining consent would cause a medically harmful delay to such a patient with a condition of an extremely critical nature, as determined by an on-duty physician's or senior clinician's personal observation. The act creates an exception to existing required court procedures for involuntary medication of defendants in the agency's custody (see BACKGROUND).

Existing law also permits involuntary medication under similar circumstances for patients admitted to psychiatric hospitals (CGS § 17a-543(b)).

EFFECTIVE DATE: Upon passage

BACKGROUND

Court Procedures for Involuntary Medication of Defendants in DMHAS Custody

Under existing law, the hospital or other facility treating such a criminal defendant may apply to probate court to medicate the defendant without his or her consent for up to 120 days at a time.

The procedures and standards differ depending on whether the patient is (1) unable, because of his or her illness, to give voluntary, informed consent or (2) able, but unwilling, to do so. In the former case, the law authorizes a probate court to appoint a special limited conservator to make the decision on the patient's behalf. In the latter case, the court may authorize the facility to forcibly medicate the patient under certain circumstances.

In either case, (1) the hospital's head, or his or her designee, and two qualified physicians must make certain determinations and (2) the conservator or court, as applicable, must consider certain factors in deciding whether to approve the facility's request (CGS § 17a-543a).